

***SURFACE TRANSPORTATION BOARD***  
**Washington, DC 20423**  
**Office of Economics, Environmental Analysis, and Administration**

December 11, 2007

Jane Peterson  
U.S. Department of Interior  
Bureau of Land Management  
Ely Field Office  
HC 33 P.O. Box 33500  
Ely, Nevada 89301-9408

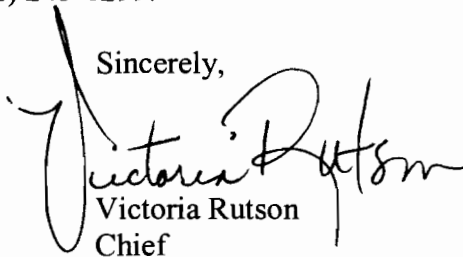
RE: Comments on the Draft Environmental Impact Statement for the  
Toquop Energy Project in Nevada, STB Docket No. EP 667

Dear Ms. Peterson:

As you know, the Surface Transportation Board (Board) may have a licensing role for this proposed project since it involves the construction and operation of a 31-mile rail line. Accordingly, the Board is participating as a cooperating agency in the environmental review for the proposed Toquop Energy Project in Nevada.

The Board's Section of Environmental Analysis (SEA) is responsible for conducting the environmental review process to ensure the Board's compliance with National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act, 16 U.S.C. 470f.<sup>1</sup> SEA has reviewed the Draft Environmental Impact Statement (DEIS) and the purpose of this letter is to provide your office with our comments on the DEIS. If you have any questions, please do not hesitate to call me or Christa Dean of my staff at (202) 245-0299.

Sincerely,



Victoria Rutson  
Chief

Section of Environmental Analysis

cc: Bill Morrill

Enclosure

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<sup>1</sup> Rail line constructions subject to licensing by the Board are considered to be "major Federal actions," requiring environmental analysis under NEPA.

December 2007 Comments from the Surface Transportation Board

Comment No.	Page No.	Comments
1	ES-6	Under "Operation and Maintenance," there is a sentence that states: "Low-sulfur coal, derived from northeast Wyoming's Powder River Basin, would be delivered by UPRR to Leith Siding and then to the power plant site via the new rail line." In that sentence, it's not clear whether UP will deliver only to Leith siding or whether UP will be the one operating on the new rail line. It needs to be clear that, at this time, the operator of the proposed new rail line is not known.
2	ES-13	Under the Noise Section, the wording appears to be wrong in the following sentence: "Because there are no public highway and one at-grade railroad crossing along the project route..."
3	2-7	In Figure 2-1, a word is misspelled. "Wet-fluet" should be changed to "wet-flue" gas desulfurization.
4	2-8	<p>"Side track rail constructed... to accommodate intersection traffic between trains traveling the existing UP line and the proposed line to the plant."</p> <p>Could you provide more information about the side track. For example, how long is it expected to be?</p>
5	2-15	<p>On page 2-15, the DEIS states that there will be two trains per day (one loaded with coal and the other empty).</p> <p>Page ES-7 says that there will be one train per day loaded with coal that would be empty on the return trip. These statements say the same thing but should be consistent in the description. (one versus two trains per day).</p> <p>Page 4-15 says that there will be one full and one empty train per day.</p> <p>Page 3-14, under 3.6.2.3, it says "one round-trip delivery of coal per day from Leith Siding to the power plant."</p> <p>For consistency, I would describe this the same way throughout the document. As stated in our earlier comments, I suggest using the description of two trains per day, one full and one empty.</p>
6	2-20	In the comments submitted to BLM in April 2007, we noted that there is not enough information about Wilderness designated areas.

		<p>In addition to the definition for "Wilderness" in the Glossary, the DEIS needs to provide readers with a brief explanation about why a Wilderness designated area poses a problem and why it eliminates an alternative rail route from consideration. The reasoning is not provided.</p>
7	3-68	<p><b>3.14 Archaeology and Historical Preservation</b></p> <p>This section needs to be expanded on. For example, I recommend including a description of the Section 106 process and what has been done in the project up until now, as well as a more detailed description of the eligible historic sites and planned mitigation measures.</p> <p>The National Historic Preservation Act (16 U.S.C. 470(f), imposes a responsibility on Federal agencies to "take into account the effect of" their licensing decisions on properties included in, or eligible for inclusion in, the National Register of Historic Places. The STB, through its Section of Environmental Analysis (SEA), undertakes the Section 106 process in railroad licensing proceedings, including proceedings in which a railroad seeks STB authorization to construct a new rail line. Accordingly, in order to be able to fulfill its responsibilities under the NHPA, the STB needs to be involved in the Section 106 process.</p> <p>As stated in our earlier comments (submitted on Dec. 21, 2006, Feb. 16, 2007, and April 10, 2007) and as discussed most recently during the 11/30/2007 conference call with BLM, the STB needs to be involved in the revision of the Programmatic Agreement (PA) and needs to be a signatory to the PA.</p> <p>In addition, as discussed, the STB needs to review copies of the surveys, updated Cultural Report, and updated Historic Properties Treatment Plan.</p>
8	3-70	<p>Under Section 3.16.1, the first sentence has an extra period at the end of the sentence.</p>
9	4.15 or 4.16	<p>If the project proponent agrees, we recommend that the following mitigation measure be added in the Final EIS: The project proponent will establish a Community Liaison to consult with local agencies and officials on project-related issues during the construction phase of the proposed project and for one year following commencement of rail operations.</p>

		This mitigation could fall under Section 4.15 (Public Safety, Hazardous Materials, and Solid Waste) or Section 4.16 (Socioeconomic Resources).
10	4-47	Elaborate on the description of the eligible historic cultural resources under Section 4.14.4.1. For example, we recommend providing the reader more details about the resources and why the resources are eligible for the National Register of Historic Places.
11	4-55	Under Section 4.16.3.2, there is an extra period at the end of the last sentence.
12	4-58	On the chart by Yucca Mountain Rail, the word northwest is misspelled.  Note that Yucca Mountain is listed in Table 4.8 titled “Summary of Past, Present, and Future Actions,” but there is no further discussion of that project under Section 4.18.3, Cumulative Impact Analysis. Does this mean that there would be no cumulative impacts related to Yucca Mountain? If that is the case, a brief explanation needs to be included as to why there would not be any cumulative impacts.
13	5-1	Under Section 5.1, in the first sentence I would say “Federally recognized American Indian tribes” rather than just “American Indian tribes.”
14	5-1	Under Section 5.2.1 (Cooperating Agencies), it would be helpful to include a brief description of the Board’s jurisdiction. I recommend adding the following sentence to the short paragraph about the Board:  The Surface Transportation Board has exclusive jurisdiction under Sections 10901 and 10501 of the Interstate Commerce Act over the construction, acquisition, and operation of common carrier rail lines.
15	1-5 3-29 5-1 5-7	ES-10 refers to the STB as the “Surface Transportation Board.”  But on page 1-5 (in two places), page 3-29, page 5-1, and page 5-7 the STB is referred to as the “U.S. Surface Transportation Board.” The “U.S.” should be deleted.
16	D-11	In the first sentence under Section 4.2.1, the word “will” should be changed to “would.”